

COMMITTEE ON HEALTH AND HUMAN SERVICES

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2098

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 36-557, Arizona Revised Statutes, is amended to read:

36-557. Community developmental disability services: service providers

A. The department may use state and federal ~~funds~~ MONIES appropriated or otherwise available to it for this purpose to assist in the establishment and maintenance of local developmental disability services by public or private nonprofit or profit agencies. The ~~funds~~ MONIES may be expended as professional fees for service, in contracts for advancement or reimbursement or in another appropriate manner and may be used for any purpose necessary to the provision of local developmental disability services. They may not be used for departmental salaries, care of developmentally disabled persons by the department or any other purpose within the department itself, but they may be used for consultation to the department in the interest of local programs.

B. A local public or private nonprofit or profit agency providing or intending to provide community developmental disability services and desiring to contract with the department for the furnishing of such services shall submit a program plan and budget to the department on the forms and in the manner required by the department. If the program meets departmental standards and is consistent with the state plan of the department and the individualized service program plan of the client, the department, notwithstanding ~~the provisions of~~ title 41, chapter 23, relating to procurement and including services pursuant to section 36-2943, may contract with that agency for ~~such~~ REQUIRED services ~~as are required~~ and ~~upon such~~ ON terms ~~and conditions as~~ REQUIRED BY the department ~~shall require~~. The contracts shall provide that the provider of services ~~shall~~ be subject to a continuing program evaluation by the department through progress reports, expenditure reports, program audits or other appropriate evaluation

1 techniques ~~and~~ to assure that the provider of service is in continued
2 compliance with the terms of the contract and the department's community
3 developmental disability service standards and requirements.

4 C. Contracts between the department and a school district or districts
5 ~~shall be~~ ARE subject to approval by the department of education.

6 D. This article does not make the department or the state responsible
7 for funding programs beyond the limits of legislative appropriation for the
8 programs. This article does not require a provider of services to provide
9 unreimbursed services to the department or its clients.

10 E. Contracts to provide community developmental disability services
11 shall require that:

12 1. The contractor is obligated to operate a program or service in
13 strict accordance with the standards adopted for such program or service by
14 the department.

15 2. If state funding is provided for a particular program, the
16 contractor, to the extent of positions available ~~which~~ THAT are being
17 purchased by the department, shall provide services to a developmentally
18 disabled client who has been evaluated and placed by the department.

19 3. All contractors must carry liability insurance in amounts approved
20 by the risk management ~~section~~ DIVISION of the department of administration
21 and file proof of ~~such~~ insurance with the risk management ~~section~~ DIVISION.
22 The director may waive ~~such~~ THIS requirement on a case-by-case basis ~~upon~~ ON
23 a finding that insurance for ~~such~~ THE program or service is not practicably
24 available at affordable rates and that it is necessary that the program or
25 service be provided by the contractor.

26 4. All clients enrolled in programs shall have all the same specified
27 rights as they would have if enrolled in a program operated directly by the
28 state.

29 5. Except for emergency placement pursuant to section 36-560,
30 subsection N, payment shall not be made based on program services provided to
31 a client if a placement evaluation has not been made, and ~~no~~ AN individual
32 program has NOT been prepared and when, ~~upon~~ ON such placement evaluation, ~~no~~
33 A recommendation has NOT been made to enroll the client in the particular
34 program service.

1 F. This article does not require a contracted agency to provide
2 unreimbursed services to the department or a client of the department.

3 ~~F.~~ G. Contracts for the purchase of residential care services other
4 than those community residential settings licensed pursuant to this chapter
5 ~~shall~~, in addition to other general requirements applicable to purchase of
6 care contractors, **SHALL**:

7 1. Provide for mandatory inspection by the department every two years
8 for facilities other than group homes.

9 2. Provide for mandatory monitoring by the department for health,
10 safety, contractual and programmatic standards at least ~~every six months~~ **ONCE**
11 **EACH YEAR**.

12 3. Provide for mandatory investigation by the department in response
13 to complaints within ten working days, except that in those instances ~~which~~
14 **THAT** pose a danger to the client, the department shall conduct the
15 investigation immediately. Health and safety complaints related to group
16 homes shall be referred to the department of health services on receipt. The
17 department of health services shall share all incident reports related to
18 health and safety with the division of developmental disabilities.

19 4. Except for group homes licensed by the department of health
20 services, specify the health and safety and sanitation codes and other codes
21 or standards applicable to the facility or to the operation of the facility
22 by the contractor other than group homes.

23 5. Provide for mandatory periodic reports to be filed by the provider
24 contractor with the department with respect to the operation of the facility.

25 6. Provide that the facility and the books and records of the facility
26 and of the provider are subject to inspection at any time by employees of the
27 department or designees of the department.

28 7. Provide that parents and guardians of developmentally disabled
29 persons residing at the facility, members of the developmental disabilities
30 advisory council, ~~and~~ and members of other recognized and ongoing advocacy
31 groups for developmentally disabled persons may inspect the facility at
32 reasonable times.

33 ~~G.~~ H. Contracts for purchase of residential care services shall
34 require a community residential setting, ~~as defined in section 36-551~~, to be

1 licensed pursuant to this chapter other than group homes licensed by the
2 department of health services.

3 ~~H.~~ I. The division shall ensure that all contracted developmental
4 disabilities service providers rendering services pursuant to this chapter
5 are reimbursed in accordance with title XIX of the social security act.

6 ~~I.~~ J. Contracts for client services issued by the department shall
7 include language outlining the provisions for a grievance and appeal
8 procedure. The director shall provide notice to providers not less than
9 thirty days ~~prior to~~ BEFORE the issuance of an amendment to a qualified
10 vendor agreement. ~~Beginning September 1, 2006,~~ The decision of the director
11 regarding qualified vendor agreement amendments may be appealed pursuant to
12 title 41, chapter 6, article 10. The grievance process applicable to these
13 contracts shall comply with title XIX requirements.

14 ~~J.~~ K. As a condition of contracts with any developmental disabilities
15 service provider, the director shall require terms that conform with state
16 and federal laws, title XIX statutes and regulations and quality standards.
17 The director shall further require contract terms that ensure performance by
18 the provider of the provisions of each contract executed pursuant to this
19 article.

20 ~~K.~~ L. The division shall establish a rate structure that ensures an
21 equitable funding basis for private nonprofit or for-profit agencies for
22 services pursuant to subsection B of this section and section 36-2943. In
23 each fiscal year, the division shall review and adjust the rate structure
24 based on ~~the provisions of~~ section 36-2959. A rate book shall be published
25 and updated by the division to announce the rate structure that shall be
26 incorporated by reference in contracts for client services.

27 ~~L.~~ M. The division shall disclose to a service provider in the
28 individual program plan defined by section 36-551, and in all meetings
29 resulting from a response to a vendor call, any historical and behavioral
30 information necessary for the provider to be able to anticipate the client's
31 future behaviors and needs, including summary information from the program
32 review committee, unusual incident reports reviewed by the human rights
33 committee and behavioral treatment plans. The division shall redact the
34 client's identification from this information.

1 ~~M~~. N. Service providers are authorized to engage in the following
2 activities in accordance with a client's individual program plan:

3 1. Administer medications, including assisting with the client's
4 self-administration of medications.

5 2. Log, store, remove and dispose of medications.

6 3. Maintain medications and protocols for direct care.

7 4. IF REQUESTED BY THE CLIENT OR THE CLIENT'S GUARDIAN AND APPROVED BY
8 THE PAYOR, SERVE WITHOUT REMUNERATION AS THE REPRESENTATIVE PAYEE FOR A
9 CLIENT. AN INDEPENDENT PROVIDER MAY NOT SERVE IN THIS CAPACITY.

10 ~~N~~. O. The department may adopt rules establishing procedures for
11 engaging in the activities listed in subsection ~~M~~ N of this section.

12 ~~O~~. P. To protect the health and safety of a client, a provider must
13 notify the division within twenty-four hours if an emergency situation exists
14 in which the provider is unable to meet the health or safety needs of the
15 client.

16 ~~P~~. Q. On notification of an emergency situation, the department shall
17 hold an individual program plan meeting within fifteen days after
18 notification to recommend any changes, including whether there is a need for
19 temporary additional staffing to provide appropriate care for a client, and
20 develop a plan within thirty days after notification to resolve the
21 situation.

22 Sec. 2. Section 36-2959, Arizona Revised Statutes, is amended to read:

23 36-2959. Reimbursement rates; capitation rates; annual review

24 A. The department shall contract with an independent consulting firm
25 for an annual study of the adequacy and appropriateness of title XIX
26 reimbursement rates to service providers for the developmentally disabled
27 program of both the Arizona long-term care system and the state only program.
28 The consultant shall also include a recommendation for annual inflationary
29 costs. Unless modified in response to federal or state law, the independent
30 consulting firm shall include, in its recommendation, costs arising from
31 amendments to existing contracts. The department may require, and the
32 department's contracted providers shall provide, financial data to the
33 department in the format prescribed by the department to assist in the study.
34 A complete study of reimbursement rates shall be completed no less than once
35 every five years.

1 B. THE INDEPENDENT CONSULTING FIRM SHALL COMPLETE THE STUDY PRESCRIBED
2 PURSUANT TO SUBSECTION A AT LEAST ONCE EVERY FIVE YEARS. THE DEPARTMENT
3 SHALL PUBLISH THE STUDY AND THE NEW REIMBURSEMENT RATES FOLLOWING A SIXTY DAY
4 REVIEW PERIOD BY SERVICE PROVIDERS. IN DETERMINING THE ADEQUACY OF THE
5 RATES, THE CONSULTING FIRM SHALL EXAMINE IN DETAIL THE COSTS ASSOCIATED WITH
6 THE DELIVERY OF SERVICES IN PROGRAMS OF ALL SIZES AND SCOPES, INCLUDING
7 PROGRAMMATIC, ADMINISTRATIVE AND INDIRECT COSTS OF PROVIDING SERVICES IN
8 RURAL AND URBAN AREAS OF THIS STATE. THE STUDY SHALL ALSO INCLUDE AN
9 ENUMERATION OF ALL REIMBURSABLE COSTS AND A SEPARATE ENUMERATION OF ALL
10 NONREIMBURSABLE COSTS. ALL REIMBURSABLE COSTS MUST BE INCLUDED IN THE
11 REIMBURSEMENT RATES AT NOT LESS THAN THE AVERAGE COST INCURRED AS
12 DEMONSTRATED THROUGH PROVIDER COST DATA COLLECTED, INCLUDING RATES PUBLISHED
13 IN 2009 AS A RESULT OF THE FIVE YEAR STUDY.

14 C. IF THE DEPARTMENT IMPLEMENTS REIMBURSEMENT RATES AT LESS THAN THE
15 REIMBURSEMENT RATES DEVELOPED BY THE INDEPENDENT CONSULTING FIRM, THE
16 DEPARTMENT MUST SUSPEND SPECIFIC SERVICE PROVIDER PROGRAM REQUIREMENTS, TERMS
17 AND SPECIFICATIONS THAT ARE EQUIVALENT TO THE DIFFERENTIAL BETWEEN THE ACTUAL
18 RATE COMPARED TO THE IMPLEMENTED RATE.

19 ~~B.~~ D. Capitation rate adjustments shall be limited to utilization of
20 existing services and inflation unless policy changes, including creation or
21 expansion of programs, have been approved by the legislature or are
22 specifically required by federal law or court mandate.

23 ~~C.~~ E. The administration shall contract with an independent
24 consulting firm for an annual study of the adequacy and appropriateness of
25 title XIX reimbursement rates to service providers for the elderly and
26 physically disabled program of the Arizona long-term care system. The
27 administration may require, and the administration's contracted providers
28 shall provide, financial data to the administration in the format prescribed
29 by the administration to assist in the study. A complete study of
30 reimbursement rates shall be completed no less than once every five years.
31 In determining the adequacy of the rates in the five year study, the
32 consulting firm shall examine in detail the costs associated with the
33 delivery of services, including programmatic, administrative and indirect
34 costs in providing services in rural and urban Arizona.

1 ~~D.~~ F. The department and the administration shall provide each of
2 their reports to the joint legislative budget committee and the
3 administration by October 1 of each year.

4 ~~E.~~ G. The department shall include the results of the study in its
5 yearly capitation rate request to the administration.

6 ~~F.~~ H. If results of the study are not completely incorporated into
7 the capitation rate, the administration shall provide a report to the joint
8 legislative budget committee within thirty days of setting the final
9 capitation rate, including reasons for differences between the rate and the
10 study."

11 Amend title to conform

and, as so amended, it do pass

NANCY K. BARTO
Chairman

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H:jjb

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02/26/2009
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C: jcs